

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 198**

Introduced by Dierks, 40

Read first time January 4, 2001

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 2-3901,  
2 2-3902, 2-3906, 2-3907, 2-3908, 2-3910, 2-3914, 2-3915,  
3 2-3917, 2-3917.01, 2-3924, 2-3928, 2-3929, 2-3930, and  
4 2-3938, Reissue Revised Statutes of Nebraska; to change  
5 provisions in the Nebraska Pasteurized Milk Law adopted  
6 by reference and to provide for appeals and fees; to  
7 change provisions in the Nebraska Manufacturing Milk Act  
8 relating to standards, classifications, and due process;  
9 to eliminate obsolete provisions; to harmonize  
10 provisions; and to repeal the original sections.  
11 Be it enacted by the people of the State of Nebraska,

1                   Section 1.    Section 2-3901, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   2-3901.    (1) Sections 2-3901 to 2-3911~~7~~ and the  
4 publications adopted by reference in ~~subsection (2)~~ subsections (2)  
5 and (3) of this section~~7~~ and Part II of the Grade A Pasteurized  
6 Milk Ordinance as adopted by reference in subsection (3) of this  
7 ~~section~~ shall be known and may be cited as the Nebraska Pasteurized  
8 Milk Law.

9                   (2) The Legislature adopts by reference the following  
10 official documents of the National Conference on Interstate Milk  
11 Shipments as published by the United States Department of Health  
12 and Human Services, Food and Drug Administration:

13                   (a) Grade A Pasteurized Milk Ordinance, 1999 Revision, as  
14 delineated in subsection (3) of this section;

15                   (b) Grade A Condensed and Dry Milk Products and Condensed  
16 and Dry Whey, 1995 Revision;

17                   (c) Methods of Making Sanitation Ratings of Milk  
18 Supplies, 1999 Revision;

19                   (d) Procedures Governing the Cooperative State-Public  
20 Health Service/Food and Drug Administration Program of the National  
21 Conference on Interstate Milk Shipments, 1999 Revision; and

22                   (e) Evaluation of Milk Laboratories, 1995 Revision.    the  
23 ~~publications titled Standards for the Fabrication of Single Service~~  
24 ~~Containers and Closures for Milk and Milk Products, 1995 Revision,~~  
25 ~~and Grade A Condensed and Dry Milk Products and Condensed and Dry~~  
26 ~~Whey, Supplement I to the Grade A Pasteurized Milk Ordinance, 1995~~  
27 ~~Revision.~~

28                   (3) The Legislature adopts by reference Part II All

1 provisions of the Grade A Pasteurized Milk Ordinance, including  
2 footnotes relating to requirements for cottage cheese, and the  
3 appendices with which the ordinance requires mandatory compliance  
4 are adopted with the following exceptions: --1978 Recommendations  
5 of the United States Public Health Service/Food and Drug  
6 Administration, 1995 Revision, the Ordinance, as follows:

7           ~~(a)~~ Provisions of the Ordinance Appendixes with which the  
8 Ordinance requires mandatory compliance are adopted as a  
9 requirement of the Ordinance,

10           ~~(b)~~ (a) Section 9 of the Ordinance ordinance is replaced  
11 by section 2-3903;

12           ~~(c)~~ (b) Section 15 of the Ordinance ordinance is replaced  
13 by sections 2-3904 and 2-3905;

14           ~~(d)~~ (c) Section 16 of the Ordinance ordinance is replaced  
15 by section 2-3909;

16           ~~(e)~~ (d) Section 17 of the Ordinance ordinance is not  
17 adopted;

18           ~~(f)~~ Footnotes 3 and 4 of Part II of the Ordinance and all  
19 provisions relating to the regulation of cottage cheese, dry curd  
20 cottage cheese, and lowfat cottage cheese are adopted; and

21           ~~(g)~~ (e) Section 3 of the Ordinance ordinance,  
22 Administrative Procedures, Issuance of Permits, is adopted with the  
23 following modifications:

24           (i) All references to issuing permits to bulk milk pickup  
25 tankers are not adopted as a part of the Nebraska Pasteurized Milk  
26 Law; and

27           (ii) In addition to the administrative procedures  
28 provided in Section 3 of the Ordinance, the The Department of

1 Agriculture may suspend a permit for a definite period of time or  
2 place the holder of a permit on probation upon evidence of  
3 violation by the holder of any of the provisions of the Nebraska  
4 Pasteurized Milk Law; and

5 (ii) Decisions of the department may be appealed and such  
6 appeals shall be in accordance with the Administrative Procedure  
7 Act.

8 (4) Copies of the Ordinance, the Appendixes, and the  
9 publications, adopted by reference, shall be filed in the offices  
10 of the Secretary of State, Clerk of the Legislature, and Department  
11 of Agriculture.

12 Sec. 2. Section 2-3902, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 2-3902. The Nebraska Pasteurized Milk Law shall be used  
15 for the regulation of: (1) The production, transportation,  
16 processing, handling, sampling, examination, grading, labeling, and  
17 sale of all milk and milk products, other than milk and milk  
18 products regulated under the Nebraska Manufacturing Milk Act; ~~7~~  
19 ~~sold for ultimate consumption within the State of Nebraska;~~ (2) the  
20 inspection of dairy herds, dairy farms, milk plants, plants  
21 fabricating single-service articles, transfer stations, receiving  
22 stations, milk haulers, and milk distributors; and (3) the  
23 issuance, suspension, and revocation of permits.

24 Sec. 3. Section 2-3906, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 2-3906. (1) As a condition precedent to the issuance of  
27 a permit issued pursuant to the Nebraska Pasteurized Milk Law, and  
28 on or before August 1 of each year thereafter, the following

1 described permit fees shall be paid to the department:

2	Milk Plant .....	\$100.00
3	Receiving Station .....	100.00
4	Plant Fabricating Single-Service Articles .....	100.00
5	Milk Distributor .....	75.00
6	Transfer Station .....	50.00
7	<u>Milk Tank Truck Cleaning Facility .....</u>	<u>50.00</u>
8	<u>Milk Transportation Company .....</u>	<u>25.00</u>
9	Milk Hauler .....	25.00
10	Milk Producer .....	No Fee
11	<u>Milk Tank Truck .....</u>	<u>No Fee</u>

12 (2) If the applicant is an individual, the application  
13 for a permit shall include the applicant's social security number.

14 (3) All raw milk produced on farms or pasteurized in  
15 plants holding permits issued under the Nebraska Pasteurized Milk  
16 Law shall be subject to the payment of inspection fees as  
17 prescribed in subsections (4) through (7) of this section. All  
18 fees shall be paid on or before the fifteenth of the month for milk  
19 produced or processed during the preceding month. Inspection fees  
20 for milk pasteurized outside of Nebraska shall be paid by the  
21 person shipping such raw milk outside the state. Inspection fees  
22 for milk pasteurized within Nebraska shall be paid by the plant  
23 pasteurizing such raw milk.

24 (4) The inspection fee on raw milk produced on a Grade A  
25 farm holding a permit issued under the Nebraska Pasteurized Milk  
26 Law and pasteurized at a Grade A plant holding a permit issued  
27 under such law shall be three cents per hundredweight of raw milk  
28 pasteurized.

1           (5) The inspection fee on raw milk produced on a Grade A  
2 farm holding a permit issued under the Nebraska Pasteurized Milk  
3 Law and pasteurized at a manufacturing milk plant shall be two and  
4 one-half cents per hundredweight of raw milk pasteurized in  
5 Nebraska, or per hundredweight of raw milk shipped from Nebraska,  
6 as appropriate.

7           (6) The inspection fee on raw milk produced on a Grade A  
8 farm holding a permit issued under the Nebraska Pasteurized Milk  
9 Law and pasteurized at a plant located outside of Nebraska shall be  
10 two and one-half cents per hundredweight of raw milk shipped from  
11 Nebraska.

12           (7) The inspection fee on raw milk produced on a Grade A  
13 farm not holding a permit issued under the Nebraska Pasteurized  
14 Milk Law and pasteurized at a Grade A plant holding a permit issued  
15 under such law shall be three-fourths of one cent per hundredweight  
16 of raw milk pasteurized.

17           (8) If any person required to have a permit pursuant to  
18 the Nebraska Pasteurized Milk Law has been operating prior to  
19 applying for a permit, an additional fee of one hundred dollars  
20 shall be paid upon application.

21           Sec. 4. Section 2-3907, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           2-3907. Whenever a regulatory agency ~~shall find~~ finds  
24 milk or milk products being manufactured, processed, transported,  
25 distributed, offered for sale, or sold, in violation of the  
26 adulteration or misbranding provisions of the ~~ordinance~~ Nebraska  
27 Pasteurized Milk Law, it shall have the authority to issue and  
28 enforce a written or printed stop-sale, stop-use, or removal order

1 to the person in charge of such milk or milk product only if, ~~and~~  
2 ~~only~~ if, the issuance of such an order is necessary for the  
3 protection of the public health, safety, or welfare. Such an order  
4 shall specifically describe the nature of the violation found and  
5 the precise action necessary to bring the milk or milk products  
6 into compliance with the applicable provisions of the ~~ordinance~~  
7 Nebraska Pasteurized Milk Law. Such an order shall clearly advise  
8 the person in charge of the milk or milk products that he or she  
9 may request an immediate hearing before the Director of Agriculture  
10 or his or her ~~designate~~ designee on the matter. The issuance of  
11 orders under this section shall be limited to instances in which no  
12 alternative course of action would sufficiently protect the public  
13 health, safety, or welfare.

14 Sec. 5. Section 2-3908, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 2-3908. The Department of Agriculture may adopt and  
17 promulgate reasonable rules and regulations to ~~aid in the~~  
18 ~~administration and enforcement of~~ carry out the Nebraska  
19 Pasteurized Milk Law.

20 Sec. 6. Section 2-3910, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 2-3910. The Director of Agriculture shall make and  
23 publish the results of periodic surveys of milksheds to determine  
24 the degree of compliance with the sanitary requirements for the  
25 production, processing, handling, distribution, sampling, and  
26 hauling of milk and milk products as provided in the Nebraska  
27 Pasteurized Milk Law. The Director of Agriculture shall have the  
28 power to adopt and promulgate reasonable rules and regulations in

1 accordance with the procedure defined in the Administrative  
2 Procedure Act for the interpretation and enforcement of this  
3 section. Such a survey or rating of a milkshed shall follow the  
4 procedures prescribed by the United States Department of Health and  
5 Human Services in its documents entitled Methods of Making  
6 Sanitation Ratings of Milk Supplies, and Procedures Governing the  
7 Cooperative State-Public Health Service/Food and Drug  
8 Administration Program for Certification of Interstate Milk  
9 Shippers. ~~7 as such documents existed on January 17, 1997, copies~~  
10 ~~of which shall be kept on file in the offices of the Secretary of~~  
11 ~~State, the Clerk of the Legislature, and the Director of~~  
12 ~~Agriculture.~~

13 Sec. 7. Section 2-3914, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 2-3914. For purposes of the Nebraska Manufacturing Milk  
16 Act, unless the context otherwise requires:

17 (1) 3-A sanitary standards ~~shall mean~~ means the standards  
18 for dairy equipment formulated by the 3-A sanitary standards  
19 committees representing the International Association of Milk, ~~and~~  
20 Food and Environmental Sanitarians, the United States Department of  
21 Health and Human Services, and the Dairy Industry Committee and  
22 published by the International Association of Milk, ~~and~~ Food and  
23 Environmental Sanitarians in effect on July 1, 2001;

24 (2) Acceptable milk ~~shall mean~~ means milk that qualifies  
25 under sections 2-3915 to 2-3917.01 as to sight and odor and that is  
26 classified acceptable for somatic cells, bacterial ~~count~~ content,  
27 drug residues, and sediment content;

28 (3) Adulterated milk and dairy products ~~shall mean~~ means



1 any milk or dairy products in which one or more of the conditions  
2 described in section 402 of the Federal Food, Drug, and Cosmetic  
3 Act, as it exists on ~~January 17, 1993~~ July 1, 2001, exist;

4 (4) C-I-P or cleaned-in-place ~~shall mean~~ means the  
5 procedure by which sanitary pipelines or pieces of dairy equipment  
6 are mechanically cleaned in place by circulation;

7 (5) Dairy farm or farm ~~shall mean~~ means a place or  
8 premises where one or more milking cows, goats, or sheep are kept  
9 and milk is produced and offered for sale to a plant for  
10 manufacturing purposes;

11 (6) Dairy plant, plant, or receiving station ~~shall mean~~  
12 means any place, premises, or establishment where milk or dairy  
13 products are received or handled for processing or manufacturing or  
14 prepared for distribution. When plant is used in connection with  
15 the production, transportation, grading, or use of milk, it ~~shall~~  
16 ~~mean~~ means any plant that handles or purchases milk for  
17 manufacturing purposes, and when used in connection with minimum  
18 specifications for plants or issuing of permits to plants, it ~~shall~~  
19 ~~mean~~ means only those plants that manufacture dairy products;

20 (7) Dairy products ~~shall mean~~ means products allowed to  
21 be made from milk for manufacturing purposes and not required to be  
22 of Grade A quality;

23 (8) Department ~~shall mean~~ means the Department of  
24 Agriculture;

25 (9) Director ~~shall mean~~ means the Director of Agriculture  
26 or his or her duly authorized agent or designee;

27 (10) Fieldman ~~shall mean~~ means an individual qualified  
28 and trained in the sanitary methods of production and handling of

1 milk as set forth in the Nebraska Manufacturing Milk Act and  
2 generally employed by a processing or manufacturing plant for the  
3 purpose of quality control work;

4 (11) Hauler-sampler ~~shall mean~~ means an individual who  
5 collects and samples milk from a dairy farm for delivery to a dairy  
6 plant, receiving station, or transfer station;

7 (12) Inspector ~~shall mean~~ means an employee of the  
8 department who is qualified and trained to perform inspections  
9 under the act;

10 (13) Laboratory procedures ~~shall mean~~ means procedures  
11 found in: (a) Standard Methods for the Examination of Dairy  
12 Products, sixteenth edition, a publication of the American Public  
13 Health Association; (b) Official Methods of Analysis, fifteenth  
14 edition, a publication of the AOAC International; (c) Pesticide  
15 Analytical Manual, second edition, a publication of the federal  
16 Environmental Protection Agency; (d) Bacteriological Analytical  
17 Manual, seventh edition, a publication of the federal Food and Drug  
18 Administration; and (e) other methods that have shown to be equally  
19 accurate, precise, and practical and which have been approved by  
20 the director;

21 (14) Milk ~~shall mean~~ means the normal lacteal secretion,  
22 practically free from colostrum, obtained by the complete milking  
23 of one or more healthy cows, goats, or sheep. Milk ~~shall include~~  
24 includes only milk for manufacturing purposes. Cow milk, goat  
25 milk, sheep milk, or a combination thereof may be used to  
26 manufacture dairy products that are legally provided for in 21  
27 C.F.R., as it exists on ~~January 1, 1993~~ July 1, 2001, or for  
28 nonstandardized products when properly labeled;

1           (15) Milk for manufacturing purposes ~~shall mean~~ means  
2 milk produced for processing and manufacturing into products not  
3 required by law to be of Grade A quality;

4           (16) Milking facility ~~shall mean~~ means a milking barn,  
5 milking area, or milking parlor in which the milking of dairy  
6 animals is performed;

7           (17) Permit ~~shall mean~~ means a permit issued under the  
8 act by the director;

9           (18) Person ~~shall mean~~ means an individual, plant  
10 operator, partnership, limited liability company, corporation,  
11 company, firm, trustee, or association;

12           (19) Probational milk ~~shall mean~~ means milk classified  
13 undergrade for somatic cells, bacterial ~~count~~ content, or sediment  
14 content that may be accepted by plants for specific time periods;

15           (20) Producer ~~shall mean~~ means the person or persons who  
16 exercise control over the production of the milk delivered to a  
17 processing plant or receiving station for manufacturing purposes;

18           (21) Reject milk ~~shall mean~~ means milk that does not  
19 qualify under sections 2-3915 to 2-3917.01;

20           (22) State-certified laboratory ~~shall mean~~ means a dairy  
21 industry laboratory or commercial laboratory certified under the  
22 Grade A Interstate Milk Shippers Program or that has been certified  
23 by the department to perform official work for examination of milk  
24 for manufacturing purposes as required in the Nebraska  
25 Manufacturing Milk Act; and

26           (23) Transfer station ~~shall mean~~ means any place,  
27 premises, or establishment where milk for manufacturing purposes or  
28 manufactured milk products are transferred directly from one

1 transport tank to another.

2           Sec. 8.     Section 2-3915, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           2-3915. The classification of raw milk for manufacturing  
5 purposes shall be based on sight and odor and quality control tests  
6 for somatic cells, bacterial ~~count~~ content, sediment content, and  
7 drug residues. Classification shall be either acceptable,  
8 probational, or reject.

9           Sec. 9.     Section 2-3917, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           2-3917. All dairy plants shall run the quality tests set  
12 out in this section in a state-certified laboratory and, ~~except as~~  
13 ~~provided in subdivision (8) of this section,~~ report the results to  
14 the department upon request. The test methods shall be those  
15 stated in laboratory procedures.

16           (1) Milk shall be classified for bacterial ~~counts as~~  
17 ~~follows~~ content by the standard plate count or plate loop count.  
18 Bacterial count limits of individual producer milk shall not exceed  
19 five hundred thousand per milliliter.

20           (2) Bacterial counts shall be run at least four times in  
21 six consecutive months at irregular intervals at times designated  
22 by the director on representative samples of each producer's milk.  
23 Whenever any two out of four consecutive bacterial counts exceed  
24 five hundred thousand per milliliter, the producer shall be sent a  
25 written notice by the department. Such notice shall be in effect  
26 so long as two of the last four consecutive samples exceed the  
27 limit of the standard set out in subdivision (1) of this section.  
28 A producer sample shall be taken between three and twenty-one days

1 after the second excessive count. If that sample indicates an  
2 excessive bacterial count, the producer's milk shall be rejected  
3 until subsequent testing indicates a bacterial count of five  
4 hundred thousand per milliliter or less.

5 (3) All dairy plants shall smell all raw milk received.  
6 Milk failing to meet the odor standards of section 2-3916 shall be  
7 rejected.

8 (4) Laboratory examinations for somatic cells shall be  
9 conducted at least four times in six consecutive months at  
10 irregular intervals at times designated by the director on  
11 representative samples of each producer's milk. Such examinations  
12 may begin with a screening test to determine whether the sample  
13 exceeds a Wisconsin Mastitis Test result of ten millimeters or  
14 higher.

15 (5) If a sample exceeds the screening test results set  
16 out in subdivision (4) of this section or if no screening test is  
17 run, either of the following tests shall be used to obtain an  
18 official result:

19 (a) Direct microscopic somatic cell count or equivalent;

20 or

21 (b) Electronic somatic cell-counting procedure.

22 Whenever an official result indicates a somatic cell  
23 count of more than seven hundred fifty thousand somatic cells per  
24 milliliter for cow milk or sheep milk or one million per milliliter  
25 for goat milk, the procedure set out under subdivision (6) of this  
26 section shall be applied.

27 (6) ~~Somatic cell counts of individual producer milk for~~  
28 ~~cow milk and sheep milk shall not exceed seven hundred fifty~~

1 ~~thousand per milliliter and for goat milk shall not exceed one~~  
2 ~~million per milliliter.~~ The following somatic cell standards shall  
3 apply to individual manufacturing milk producers: Cow and sheep  
4 milk shall not exceed seven hundred fifty thousand somatic cells  
5 per milliliter, and goat milk shall not exceed one million somatic  
6 cells per milliliter. Whenever any two out of four consecutive  
7 somatic cell counts exceed the ~~limit~~ standard, the producer shall  
8 be sent a written notice by the department. Such notice shall be  
9 in effect so long as two of the last four consecutive samples  
10 exceed the limit of the standard set out in this subdivision. A  
11 producer sample shall be taken between three and twenty-one days  
12 after the second excessive count. Whenever three out of five  
13 consecutive samples are in excess of the ~~limit~~ standard, the  
14 producer's milk shall be rejected until subsequent testing  
15 indicates a somatic cell count equal to or less than the ~~applicable~~  
16 ~~limit of somatic cells per milliliter~~ standard. For three weeks  
17 after the acceptable count is obtained, the producer's milk shall  
18 be tested at least once a week but no more than twice a week.  
19 Testing at this frequency shall continue until three consecutive  
20 acceptable counts are obtained, after which testing may return to  
21 the routine frequency prescribed in subdivision (4) of this  
22 section.

23 (7) Milk from cows, goats, or sheep infected with  
24 mastitis, milk containing drug residues, or milk containing  
25 pesticides or other chemical residues in excess of the established  
26 limits shall not be sold or offered for sale for human food. Cows,  
27 goats, or sheep that secrete abnormal milk shall be milked last or  
28 with separate equipment. This milk shall be excluded from the

1 supply. Milk from cows, goats, or sheep treated with drugs shall  
2 be excluded for such period of time as is necessary to have the  
3 milk free from drug residues.

4 (8) Each producer's milk shall be tested by the plant at  
5 least four times each six months at irregular intervals at times  
6 designated by the director for drug residues. Load samples may be  
7 tested in lieu of individual producer samples if all the producer  
8 samples are available to identify the responsible producer in case  
9 of positive results. Milk found to contain drug residues shall be  
10 handled as prescribed in subdivision (7) of this section.  
11 State-certified laboratories shall immediately notify the  
12 department of drug residues. ~~When a producer's milk shows positive~~  
13 ~~results, such producer shall immediately be cut off from all~~  
14 ~~markets. The producer shall not be reinstated until subsequent~~  
15 ~~testing shows the producer's milk to be free of drug residues.~~  
16 ~~Dairy plants shall not use any milk or dairy products known to~~  
17 ~~contain unacceptable levels of drug residues for the manufacture of~~  
18 ~~milk or dairy products for human consumption.~~

19 (9)(a) The industry shall test all bulk milk pickup  
20 tankers for beta lactam drug residues. Additionally, other drug  
21 residues ~~shall~~ may be screened for by employing a random sampling  
22 program on bulk milk pickup tankers. ~~The random sampling program~~  
23 ~~shall represent and include, in any consecutive six months, at~~  
24 ~~least four samples collected in at least four separate months.~~  
25 Samples collected under the random sampling program shall be  
26 analyzed as specified by the federal Food and Drug Administration.  
27 All loads of milk testing positive for drug residue shall be  
28 immediately reported to the department. Bulk loads of milk shall

1 be sampled prior to commingling and tested prior to processing of  
2 the milk. Whenever a load of milk shows a positive test,  
3 individual producer samples shall be individually tested to  
4 determine the farm of origin. The samples shall be tested as  
5 directed by the department. Accurate records of the results of the  
6 milk quality and drug residue test for each producer shall be kept  
7 on file at the plant for a period of not less than twelve months.  
8 The records shall be available for examination by the department.

9           (b) When a producer's milk sample is found to be positive  
10 for drug residue, the department shall immediately suspend the  
11 permit of the producer. The producer's permit may be reinstated  
12 when a sample taken from the producer's milk is no longer positive  
13 for drug residue. All tests for suspension and reinstatement shall  
14 be done in a certified laboratory using certified methods and  
15 certified analysts. For a third occurrence of a positive drug  
16 residue in a twelve-month period, the director shall initiate  
17 administrative procedures to revoke the producer's permit. When a  
18 load of milk is positive for drug residue, the department shall  
19 immediately suspend the permit of the responsible producer for a  
20 minimum of two days or the equivalent penalty as determined by the  
21 director. On the second occurrence of violative drug residue in a  
22 twelve-month period, the producer's permit shall be suspended for a  
23 minimum of four days or equivalent penalties as determined by the  
24 director. For a third occurrence of violative drug residue in a  
25 twelve-month period, the suspension of the permit shall be the same  
26 as the second occurrence and the director shall initiate  
27 administrative procedures pursuant to revocation of the producer's  
28 permit.



1           (c) Whenever a load of milk is positive for drug residue,  
2 it shall be deemed adulterated and shall not be used for human  
3 consumption. The responsible producer shall be liable for the  
4 value of the adulterated milk plus any cost associated with its  
5 disposal. The department may accept certification from the milk  
6 purchaser as verification that the producer was assessed the  
7 penalty. When a load of milk is negative and there is a producer  
8 whose milk is positive on the load, the director shall be advised  
9 and the producer's permit suspended until such time as subsequent  
10 testing reveals an acceptable result. The director may waive the  
11 two-day or four-day penalty when the load of milk is negative, but  
12 it shall count on the producer record as either a first, second, or  
13 third occurrence, and the reinstatement procedure shall be as  
14 described in subdivision (d) of this subdivision.

15           (d) The permit may be restored to a temporary permit  
16 status after the penalty when a sample is taken from the producer's  
17 milk and the farm bulk tank is no longer positive for drug  
18 residues. In no event shall the permit of the violative producer  
19 be reinstated by the director until the responsible producer and a  
20 licensed veterinarian have signed a quality assurance certificate  
21 for display in the milkhouse or milkroom which states that the Milk  
22 and Dairy Beef Residue Prevention Protocol is in place and is being  
23 implemented for the dairy herd from which the adulterated milk  
24 containing the violative drug residue was shipped.

25           (e) The department shall monitor industry surveillance  
26 activities by making unannounced onsite inspections to collect  
27 samples from bulk milk pickup tankers and to review industry  
28 records of the random sampling program.

1           ~~(f)~~ (e) The department shall perform routine sampling and  
2 testing for drug residues.

3           (10) Each producer's milk shall be tested by the  
4 department at least once a year for residues of pesticides or other  
5 harmful chemicals. Milk found to contain excessive residues of  
6 such substances shall be handled as prescribed in subdivision (7)  
7 of this section.

8           Sec. 10. Section 2-3917.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           2-3917.01. (1) Milk shall be classified for sediment  
11 content, regardless of the results of the appearance and odor  
12 examination described in section 2-3916, according to sediment  
13 standards as follows:

14           (a) No. 1: Acceptable, not to exceed fifty-hundredths  
15 milligrams or its equivalent;

16           (b) No. 2: Acceptable, not to exceed one and  
17 fifty-hundredths milligrams or its equivalent;

18           (c) No. 3: Probational, not over ten days, not to exceed  
19 two and fifty-hundredths milligrams or its equivalent; and

20           (d) No. 4: Reject, over two and fifty-hundredths  
21 milligrams or its equivalent.

22           (2) Methods for determining the sediment content of the  
23 milk of individual producers shall be the methods described in the  
24 laboratory procedures. Sediment content shall be based on  
25 comparison with applicable charts of subpart T, sections 58.2728 to  
26 58.2732 of the United States Sediment Standards for Milk and Milk  
27 Products, 7 C.F.R. 58, as such standards exist on July 1, ~~1993~~  
28 2001.

1           (3) Sediment testing shall be performed at least four  
2 times every six months at irregular intervals as designated by the  
3 director.

4           (4) If the sediment disc is classified as No. 1, No. 2,  
5 or No. 3, the producer's milk may be accepted. If the sediment  
6 disc is classified as No. 4, the milk shall be rejected. A  
7 producer's milk that is classified as No. 3 may be accepted for a  
8 period not to exceed ten calendar days. If at the end of ten days  
9 the producer's milk does not meet acceptable sediment  
10 classification No. 1 or No. 2, it shall be rejected from the  
11 market. If the sediment disc is classified as No. 4, the milk  
12 shall be rejected and no further shipments accepted unless the milk  
13 meets the requirements of No. 3 or better.

14           Sec. 11. Section 2-3924, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           2-3924. Utensils, milk cans, milking machines, including  
17 pipeline systems, and other equipment used in the handling of milk  
18 shall be maintained in good condition, shall be free from rust,  
19 open seams, milkstone, or any unsanitary condition, and shall be  
20 washed, rinsed, and drained after each milking, stored in suitable  
21 facilities, and sanitized immediately before use. New or  
22 replacement can lids shall be umbrella type. All new utensils, new  
23 farm bulk tanks, and equipment shall meet 3-A sanitary standards ~~in~~  
24 ~~effect on July 17, 1993,~~ and comply with applicable rules and  
25 regulations of the department.

26           Sec. 12. Section 2-3928, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28           2-3928. (1) At the dairy plant and the receiving

1 station, there shall be an ample supply of both hot and cold water  
2 of safe and sanitary quality with adequate facilities for its  
3 proper distribution throughout the plant and protected against  
4 contamination. Water from other facilities, when officially  
5 approved, may be used for boiler feed water and condenser water so  
6 long as such water lines are completely separated from the water  
7 lines carrying the sanitary water supply and the equipment is so  
8 constructed and controlled as to preclude contamination of product  
9 contact surfaces. There shall be no cross-connection between  
10 potable water lines and nonpotable water lines or between public  
11 and private water supplies. Bacteriological examinations shall be  
12 made of the plant's sanitary water supply which shall include water  
13 extracted from milk and cooling water taken at the plant at least  
14 twice each year. The results of all water tests shall be kept on  
15 file at the plant for which the test was performed.

16 (2) The location, construction, and operation of any well  
17 shall comply with rules and regulations of the Department of Health  
18 and Human Services Regulation and Licensure.

19 (3) Drinking water facilities of a sanitary type shall be  
20 provided in the plant and should be conveniently located.

21 (4) Convenient hand-washing facilities shall be provided,  
22 including hot and cold running water, soap or other detergents, and  
23 sanitary single-service towels or air driers. Such accommodations  
24 shall be located in or adjacent to toilet and dressing rooms and  
25 also at such other places in the plant as may be essential to the  
26 cleanliness of all personnel handling products. Vats for washing  
27 equipment or utensils shall not be used as hand-washing facilities.  
28 Containers shall be provided for used towels and other wastes. The

1 containers may be metal or plastic, may be disposable or reusable,  
2 and shall have self-closing covers.

3 (5) Steam shall be supplied in sufficient volume and  
4 pressure for satisfactory operation of each applicable piece of  
5 equipment. Culinary steam used in direct contact with milk or  
6 dairy products shall be free from harmful substances or extraneous  
7 material and only those boiler water additives approved by the  
8 department shall be used, or a secondary steam generator shall be  
9 used, in which soft water is converted to steam and no boiler  
10 compounds are used. Steam traps, strainers, and condensate traps  
11 shall be used wherever applicable to insure a satisfactory and safe  
12 steam supply. Culinary steam shall comply with the ~~recommended~~  
13 ~~practices for Producing Culinary Steam for Processing Milk and Milk~~  
14 ~~Products as published by the National Association of Food and Dairy~~  
15 ~~Equipment Manufacturers on July 17, 1993~~ 3-A Accepted Practices for  
16 a Method of Producing Steam of Culinary Quality.

17 (6) The method for supplying air under pressure which  
18 comes in contact with milk or dairy products or any product contact  
19 surfaces shall comply with the 3-A Accepted Practices for Supplying  
20 Air Under Pressure. ~~in effect July 17, 1993.~~

21 (7) Dairy wastes shall be properly disposed of from the  
22 plant and premises. The sewer system shall have sufficient slope  
23 and capacity to readily remove all waste from the various  
24 processing operations. Where a public sewer is not available, all  
25 wastes shall be properly disposed of so as not to contaminate milk  
26 equipment or to create a nuisance or public health hazard.  
27 Containers used for the collection and holding of wastes shall be  
28 constructed of metal, plastic, or other equally impervious material

1 and kept covered with tight-fitting lids. Waste shall be stored in  
2 an area or room in a manner to protect it from flies and vermin.  
3 Solid wastes shall be disposed of regularly and the containers  
4 cleaned before reuse. Accumulation of dry wastepaper and cardboard  
5 shall be kept to a minimum and disposed of in a manner that is  
6 environmentally acceptable.

7           Sec. 13. Section 2-3929, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           2-3929. (1) Dairy plant equipment and utensils used for  
10 the processing of milk and manufacture of dairy products shall be  
11 constructed to be readily demountable when necessary for cleaning  
12 and sanitizing. The product contact surfaces of all utensils and  
13 equipment such as holding tanks, pasteurizers, coolers, vats,  
14 agitators, pumps, sanitary piping and fittings, or any specialized  
15 equipment shall be constructed of stainless steel, or other  
16 materials which under conditions of intended use are as equally  
17 corrosion resistant. Nonmetallic parts other than glass having  
18 product contact surfaces shall comply with 3-A Sanitary Standards  
19 for Plastic or Rubber and Rubber-Like Materials. ~~in effect July 1,~~  
20 ~~1993.~~ Equipment and utensils used for cleaning shall be in an  
21 acceptable condition, such as not rusty, pitted, or corroded. All  
22 equipment and piping shall be designed and installed so as to be  
23 easily accessible for cleaning and shall be kept in good repair,  
24 free from cracks and corroded surfaces. New or rearranged  
25 equipment shall be set away from any wall or spaced in such a  
26 manner as to facilitate proper cleaning and to maintain good  
27 housekeeping. All parts or interior surfaces of equipment, pipes,  
28 except certain piping cleaned-in-place, or fittings, including

1 valves and connections, shall be accessible for inspection. Milk  
2 and dairy product pumps shall be of a sanitary type and easily  
3 dismantled for cleaning or shall be of specially approved  
4 construction to allow effective cleaning in place. All C-I-P  
5 systems shall comply with the 3-A Accepted Practices for  
6 Permanently Installed Sanitary Product, Pipelines, and Cleaning  
7 Systems. ~~in effect July 1, 1993.~~

8 (2) Storage tanks or vats shall be fully enclosed or  
9 tightly covered and well insulated. The entire interior surface,  
10 agitator, and all appurtenances shall be accessible for thorough  
11 cleaning and inspection. Any opening at the top of the tank or vat  
12 including the entrance of the shaft shall be suitably protected  
13 against the entrance of dust, moisture, insects, oil, or grease.  
14 The sight glasses, if used, shall be sound, clear, and in good  
15 repair. Vats which have hinged covers shall be easily cleaned and  
16 shall be so designed that moisture or dust on the surface cannot  
17 enter the vat when the covers are raised. If the storage tanks or  
18 vats are equipped with air agitation, the system shall be of an  
19 approved type and properly installed in accordance with the 3-A  
20 Accepted Practices for Supplying Air Under Pressure. ~~in effect~~  
21 ~~July 1, 1993.~~ Storage tanks or vats intended to hold product for  
22 longer than approximately eight hours shall be equipped with  
23 adequate insulation. New or replacement storage tanks or vats  
24 shall comply with the appropriate 3-A Sanitary Standards for  
25 Storage Tanks for Milk and Milk Products, ~~in effect July 1, 1993,~~  
26 and shall be equipped with thermometers in good operating order.

27 (3) All product contact surfaces of separators shall be  
28 free from rust and pits and insofar as practicable shall be of

1 stainless steel or other equally noncorrosive metals.

2 (4) Coil and dome type batch pasteurizers shall be  
3 stainless steel lined, and if the coil is not stainless steel or  
4 other equally noncorrosive metal, it shall be properly tinned over  
5 the entire surface. Sanitary seal assemblies at the shaft end of  
6 coil vats shall be of the removable type, except that existing  
7 equipment not provided with this type gland will be acceptable if  
8 the packing glands are maintained and operated without adverse  
9 effects. New or replacement units shall be provided with removable  
10 packing glands. Dome type pasteurizer agitators shall be stainless  
11 steel, except that any nonmetallic parts shall comply with 3-A  
12 Sanitary Standards for Plastic or Rubber and Rubber-Like Materials,  
13 ~~in effect July 17, 1993,~~ as applicable. Each pasteurizer used for  
14 heating product at a temperature of five degrees Fahrenheit or more  
15 above the minimum pasteurization temperature need not have the  
16 airspace heater. It shall be equipped with an airspace thermometer  
17 to insure a temperature at least five degrees Fahrenheit above that  
18 required for pasteurization of the product. There shall be  
19 adequate means of controlling the temperature of the heating  
20 medium. Batch pasteurizers shall have temperature indicating and  
21 recording devices.

22 (5) When pasteurization is intended or required, the  
23 entire pasteurization system shall comply with the 3-A Accepted  
24 Practices for the Sanitary Construction, Installation, Testing, and  
25 Operation of High Temperature Short Time Pasteurizers. ~~in effect~~  
26 ~~July 17, 1993.~~ After the unit has been tested according to the 3-A  
27 accepted practices, ~~in effect July 17, 1993,~~ the timing pump or  
28 device and the recorder controller shall be sealed at the correct



1 setting to assure pasteurization. The system shall be rechecked  
2 semiannually to assure continued compliance with the 3-A accepted  
3 practices. ~~in effect July 17, 1993.~~ Sealing and rechecking of the  
4 unit shall be performed by the department. When direct steam  
5 pasteurizers are used, the steam, prior to entering the product,  
6 shall be conducted through a steam strainer and a steam purifier  
7 equipped with a steam trap and only steam meeting the requirements  
8 for culinary steam shall be used.

9 (6) Recorder charts shall be marked to show date and  
10 plant identification, reading of the indicating thermometer at a  
11 particular referenced reading point on the recording chart, amount  
12 and name of product, product temperature at which the cut in and  
13 cut out function, record of the period in which flow diversion  
14 valve is in forward-flow position, signature or initials of  
15 operators, and number of the chart for the day.

16 (7) Pumps used for milk and dairy products shall be of  
17 the sanitary type and constructed to comply with 3-A Sanitary  
18 Standards for Pumps for Milk and Milk Products. ~~in effect July 17,~~  
19 ~~1993.~~ Unless pumps are specifically designed for effective  
20 cleaning-in-place they shall be disassembled and thoroughly cleaned  
21 after use.

22 (8) New equipment and replacements, including all plastic  
23 parts and rubber and rubber-like material for parts and gaskets  
24 having product contact surfaces, shall comply with 3-A sanitary  
25 standards. ~~in effect July 17, 1993.~~ If 3-A sanitary standards are  
26 not available, such equipment and replacements shall meet the  
27 general requirements of this section. Only material that is  
28 sanitary, readily cleanable, and nontoxic shall be used for product

1 contact surfaces, parts, and gaskets.

2           Sec. 14.     Section 2-3930, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           2-3930.   (1) It shall be unlawful for any person to  
5 engage in business as a milk producer, hauler-sampler, dairy plant,  
6 ~~cream station~~, or transfer station unless such person fully  
7 complies with the permit requirements set forth in subsections (2)  
8 through (5) of this section.

9           (2) Except as provided in subsection (5) of this section,  
10 all persons engaged in a business listed under subsection (1) of  
11 this section must obtain an annual permit from the department,  
12 which permit shall expire on July 31 of the year following  
13 issuance. Permits shall be issued only following an inspection  
14 revealing that the applicant is in compliance with the Nebraska  
15 Manufacturing Milk Act. Applicants for a permit shall submit a  
16 written application to the department on forms prescribed by the  
17 department and shall pay the annual permit fees set forth in  
18 subsection (3) of this section.

19           (3) The department shall charge the following permit  
20 fees:

21	(a) Dairy Plant .....	\$100.00
22	(b) Transfer station .....	50.00
23	(c) Hauler-sampler .....	25.00
24	<del>(d) Cream station .....</del>	<del>25.00</del>
25	<del>(e) Producer .....</del>	<del>35.00.</del>
26	<u>(d) Producer .....</u>	<u>35.00.</u>

27           (4) All permit fees paid to the department in accordance  
28 with the Nebraska Manufacturing Milk Act shall be paid to the state

1 treasury and shall be credited by the State Treasurer to the  
2 Manufacturing Milk Cash Fund, which fund is hereby created. All  
3 fees credited to the fund shall be appropriated to the uses of the  
4 department to aid in defraying the expenses of administering such  
5 act. Any money in the fund available for investment shall be  
6 invested by the state investment officer pursuant to the Nebraska  
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8 (5) A person with a milk hauler permit issued under the  
9 Nebraska Pasteurized Milk Law shall not be required to have a  
10 permit or to pay fees as a hauler-sampler under this section.  
11 However, such person shall meet all requirements set forth in the  
12 Nebraska Pasteurized Milk Law for the hauling and sampling of milk  
13 for manufacturing purposes, and his or her permit issued under the  
14 Nebraska Pasteurized Milk Law shall be deemed valid as a  
15 manufacturing milk hauler-sampler permit. All procedures relating  
16 to suspending or revoking such permit shall be conducted pursuant  
17 to the Nebraska Pasteurized Milk Law. A person who is pursuing the  
18 normal duties of a hauler-sampler ~~after July 17, 1993,~~ without  
19 applying for a permit shall be assessed an additional  
20 one-hundred-dollar fee for the permit.

21 (6) The thirty-five-dollar fee for producer permits shall  
22 be paid for by the dairy plant purchasing the producer's milk. The  
23 fee shall be paid prior to the issuance of new permits and before  
24 milk may be accepted by the dairy plant. The dairy plant shall pay  
25 the renewal fee of thirty-five dollars as provided in this section.

26 (7) The department may impose a penalty in addition to  
27 the permit fees due for any such fees that are more than one month  
28 delinquent. Such penalty may not exceed ten percent of the total

1 fee for each month or portion of a month of delinquency.

2 Sec. 15. Section 2-3938, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 2-3938. The director may suspend a permit for a definite  
5 period of time or place on probation the holder of a permit upon  
6 evidence of violation by the holder of any of the terms of the  
7 Nebraska Manufacturing Milk Act or for interference with the  
8 director in the performance of his or her duties. The imposition  
9 of a suspension or probation shall require corrective action by the  
10 holder to the satisfaction of the department in order to have such  
11 suspension or probation removed.

12 The director may revoke a permit for serious, multiple,  
13 or repeated violations including interference with the director in  
14 the performance of his or her duties.

15 ~~The director shall, before~~ Before suspending a permit,  
16 placing the holder of a permit on probation, or revoking a permit  
17 ~~or placing the holder of such permit on probation~~ for violation of  
18 the terms of the Nebraska Manufacturing Milk Act, the director  
19 shall give the permitholder at least ten days' notice in writing  
20 ~~containing written notice that a hearing will be held on such~~  
21 matter. The notice shall contain a statement of the alleged  
22 violation and the time and place of such hearing. The notice may  
23 be served by delivery of a copy personally to the permitholder or  
24 by mailing a copy to the last-known business address of the  
25 permitholder. The hearing shall be conducted by the director or by  
26 a qualified employee of the department designated by the director  
27 as hearing officer. The parties may appear in person or by  
28 counsel. The permitholder shall be afforded a full hearing on the

1 charges contained in the notice of hearing. All testimony shall be  
2 upon oath or affirmation, subject to cross-examination, and shall  
3 be reported verbatim and made a part of the record. The common-law  
4 rules of evidence shall not apply, but evidence which is  
5 immaterial, irrelevant, or unduly repetitious or which is not of a  
6 sort upon which persons are accustomed to rely shall be excluded.  
7 The director within a reasonable time after the hearing shall, upon  
8 the basis of the record made at the hearing, issue findings of  
9 fact, conclusions, and an order.

10 A decision of the director ~~revoking a permit~~ under this  
11 section may be appealed, and the appeal shall be in accordance with  
12 the Administrative Procedure Act.

13 Sec. 16. Original sections 2-3901, 2-3902, 2-3906,  
14 2-3907, 2-3908, 2-3910, 2-3914, 2-3915, 2-3917, 2-3917.01, 2-3924,  
15 2-3928, 2-3929, 2-3930, and 2-3938, Reissue Revised Statutes of  
16 Nebraska, are repealed.